

October 7, 2015

Mr. Edward D. Brown, Superintendent
St. Landry Parish Schools
1013 E. Creswell Lane - P.O. Box 310
Opelousas, Louisiana 70571-0310

Reference: #06-15-1324

Dear Mr. Brown:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has reached its determination of a complaint, which was received on March 18, 2015, filed against St. Landry Parish Schools (SLPS), Opelousas, Louisiana. The complainant alleged that programs, activities and services at SLPS' Beau Chene High School are not accessible to persons with mobility impairments. Specifically, the complainant alleged the following:

1. That Beau Chene High School fails to provide designated accessible parking spaces which comply with the Americans with Disabilities Act Accessibilities Guidelines (ADAAG) that are located on the shortest accessible route to the designated accessible entrance of the facility; and,
2. That Beau Chene High School fails to provide the minimum number of required accessible parking spaces in each parking facility/lots serving the building.

This agency is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department or an agency that has delegated investigative authority to this Department are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104 -. Section 504 prohibits discrimination on the basis of disability. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation, at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against public entities. SLPS is a recipient of Federal financial assistance from the Department and is a public education system. Therefore, OCR had jurisdictional authority to process this complaint for resolution under both Section 504 and Title II.

Because OCR determined that it had jurisdiction and that the complaint was timely filed, OCR opened the following issues for investigation:

1. Whether persons with disabilities are denied the benefits of, are excluded from participation in, or are otherwise subjected to discrimination because programs,

activities and/or services in the Beau Chene High School are not accessible to or usable by persons with disabilities because the designated accessible parking spaces for this facility are not located on the shortest accessible route to the designated accessible entrance of the facility, violation of 34 C.F.R Part 104; and

2. Whether persons with disabilities are denied the benefits of, are excluded from participation in, or are otherwise subjected to discrimination because programs, activities and/or services in the Beau Chene High School are not accessible to or usable by persons with disabilities because Beau Chene High School fails to provide the minimum required number of accessible parking spaces in each parking facility serving the building, in violation of 34 C.F.R. Part 104.

Section 504's accessibility requirements provide that no qualified individual with a disability shall, because a covered entity's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity.

The regulation implementing Section 504 contains two standards for determining whether a covered entity's programs and activities are accessible to and usable by individuals with disabilities. One standard applies to existing facilities; the other covers new construction and alterations. The applicable standard depends upon the date of construction and/or alteration of the facility.

Facilities constructed or altered after June 3, 1977 are considered new construction. With respect to newly constructed facilities, 34 C.F.R. § 104.23(a) requires that the facility be designed and constructed in such a manner that it is readily accessible to and usable by individuals with disabilities. For alterations that affect or could affect facility usability, 34 C.F.R. § 104.23(b) requires that, to the maximum extent feasible, the facility be altered in such a manner that the altered portion is readily accessible to and usable by individuals with disabilities.

The new construction provisions of the Section 504 regulation also set forth specific architectural accessibility standards for facilities constructed or altered after the above-referenced dates. 34 C.F.R. § 104.23(c) requires that facilities constructed or altered on or after January 18, 1991 meet the requirements of the Uniform Federal Accessibility Standards (UFAS). This regulation provides that covered entities may depart from the particular requirements of this architectural standard if equivalent or greater access to and usability of the building is provided. Facilities constructed or altered on or after January 27, 1992 may also exercise the option to follow the 2010 Americans with Disabilities Act Accessibility Guidelines (ADAAG).

After a careful review of the information provided by the complainant and the SPLS, OCR had compliance concerns regarding the number of accessible parking spaces in the Beau Chene High School parking lots. OCR discussed, with the SPLS Superintendent, its concerns regarding the apparent lack of accessible parking spaces in these parking lots. Subsequently, on July 27, 2015, after the investigation began but before OCR had

made an investigative compliance determination, the (SLPS) expressed a desire to voluntarily resolve this complaint. At this point in its investigation, OCR had not yet definitively determined the effective construction date for the parking facility at issue. Consequently, the proposed resolution for the case resolves all issues under the most current standard – the new construction standards as measured by ADAAG. Therefore, consistent with Section 302 of OCR's Complaint Processing Manual, SLPS submitted the enclosed Resolution Agreement (Agreement), signed on September 30, 2015. OCR has determined that the Agreement addresses the compliance issues which were opened for investigation and that when fully implemented, will resolve those issues. OCR determined that accepting the Agreement was appropriate at this stage in the investigation.

Accordingly, as of the date of this letter, OCR will cease all investigative action regarding this case; however, OCR will actively monitor the implementation of the Agreement by the SLPS to determine whether the commitments made by the SLPS have been implemented consistently with the terms of the Agreement. If the SLPS fails to implement the Agreement, as specified, OCR will resume its investigation of the issues originally opened in this case. Therefore, OCR is closing the investigative phase of this complaint in accordance with our case processing procedures.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation. This letter is not intended, nor should it be construed to cover, other civil rights matters which may exist, but are not included herein.

Under OCR procedures we are obligated to advise the complainant and the institution against which a complaint is filed that intimidation or retaliation against a complainant is prohibited by the regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by the regulations enforced by OCR or because an individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing held in connection with a complaint.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding this letter, please contact Edward Jackson, the investigator assigned to this complaint, at (214) 661-9624 or by electronic mail to edward.jackson@ed.gov. You may also contact Jeff Coleman, attorney assigned to this complaint, at (214) 661-9686, or by electronic mail to jeffrey.coleman@ed.gov, or me at (214) 661-9608, or by electronic mail to paul.coxe@ed.gov.

Sincerely,

Paul Edward Coxe
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure